85-2171

NO.

Supreme Court, U.S.
FILED
JUN 12 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES
October Term 1985

Re:

HENRY G. BARTSCH
and
WILMA M. BARTSCH — Petitioners

vs

BERT H. COOPER
and
MARY A. COOPER
et al — Respondents

PETITION FOR WRIT OF MANDAMUS TO THE SUPREME COURT OF THE UNITED STATES

HENRY G. BARTSCH
WILMA M. BARTSCH
pro se
3601 34th Street, NW
Washington, D.C.
Tele. 362-8081

42 pp

QUESTIONS PRESENTED

.1. Is the 180-day period for Pretrial Discovery ordained by Superior Court of D.C. Rule 26 of Civil Procedure a privilege protected by Amendment XIV, section (1) of the U.S. Constitution?

.2. Does the Superior Court of D.C. Order of the Hon. Judge John F. Doyle filed March 22, 1985 in Petitioners' Civil Action 10791-84 (with five days added for service by U.S. Mail) -- supplemented by an unserved, only recently discovered order signed by the Hon. Judge George W. Mitchell and purporting to bear the date "May 3, 1985" -- constitute a 30-day "abridgement" of Petitioners' privilege of Discovery ordained by that Court's Rule 26 of Civil Procedure?

.3. Did the failure and refusal of Superior Court Judge Paul F. McArdle to restore the aforesaid 30-day abridgement at Pretrial Conference held October 22, 1985 under that Court's Rule 16 of Civil Procedure, constitute "enforcement" of the aforesaid orders of Judges Doyle and Mitchell proscribed under Amendment XIV, section (1) of the U.S. Constitution?

.4. Does the Official Record in Civil Action 10791-84, including the summarily-denied Interlocutory Petition No. 85-451 to the District of Columbia Court of Appeals, evidence exhaustion of Petitioners' opportunities to secure relief from said Orders of the Superior Court of the District of Columbia prior to application for a Writ of Mandamus of the Supreme Court of the United States?

.5. Is the cryptic October 22, 1985 file wrapper entry in Civil Action 10791-84:

"Pl's Request for Dismissal Granted" construable as a "Voluntary Dismissal" under Superior Court of D.C. Rule 41 of Civil Procedure?

.6. Was the otherwise undocumented October 22, 1985 "file wrapper order" of the Hon. Pretrial Judge Paul F. McArdle, which terminated your Petitioners' right to Jury Trial of the Issues in Civil Action 10791-84 of the Superior Court of the District of Columbia, violative of Amendment VII of the U.S. Constitution?

.7. Was the March 11, 1986 Summary Dismissal of your Petitioners' Appeal 86-59 by the **District of Columbia Court of Appeals** on the unsubstantiated-by-any RECORD conclusions of Appellees' Counsel

Stephen Daniel Keeffe that the issues presented on appeal were (1) "Frivolous" and (2) barred by "Voluntary Dismissal", an appellate-court deprivation of Due Process and Equal Protection of the Laws proscribed by Amendment XIV, section (1) of the U.S. Constitution?

.8. In the face of the November 5, 1984 Superior Court of D.C. Joinder of Issue on the pleaded assertion of the Appellant Wilma Bartsch's right to be identified by her married name in any posted handbill critical of her mode of cohabitation with her husband-appellant Henry Bartsch:

Is the aforesaid Order of the District of Columbia Court of Appeals precluding jury trial of that Issue under the by-that-Court-substituted caption:

"WILMA A. MILLER, ET AL.,

Appellants,

v. CA 10791-84

BERT H. COOPER, ET AL.,

Appellees."

not only an Insult, but Void?

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED.	i
STATEMENT OF FACTS	1
ISSUES	9
JURISDICTION	9
RELIEF SOUGHT	10
PETITION	13
REASONS FOR ISSUANCE	16
CONCLUSION	17
CERTIFICATE OF SERVICE	19
APPENDICES	21

STATEMENT OF FACTS

On September 4, 1984, the Petitioners Wilma and Henry Bartsch filed a Civil Action No. 10791-84 in the Superior Court of the District of Columbia against the Respondents Bert H. Cooper and Mary A. Cooper asking damages for the Coopers' public posting and publishing of a libelous handbill. Jury Trial was demanded and the $120 fee paid.

On October 18,1984, the Respondents filed Answer in the form of a general denial of all allegations of the Complaint and a "demand for strict proof" of Petitioners' marriage.

On November 5, 1984, the Court advised the Petitioners (Appendix "C") that the case was at issue, and that the privilege of Pretrial Discovery would, under the Court's Rule 26 C(d),

terminate 180 days thereafter.

Pursuant to notice without subpoena, Plaintiffs were summoned by the Respondents' attorney, Stephen Daniel Keeffe, to appear and stand oral examination by him in his law office. Petitioners duly and willingly appeared, but were advised by attorney Keeffe that each would have to stand examination out of the presence of the other. To such stricture Petitioners refused to consent, and attorney Keeffe withdrew his condition, only to later advise Petitioners (before conclusion of the direct examination of Wilma Bartsch) that neither she nor her husband would be permitted to cross examine in clarification of answers given on Direct. With this condition, and in the face of abject refusal to withdraw that stricture, plaintiffs

announced on the record that they would no further submit to examination on Direct, and they departed from attorney Keeffe's office, challenging the proceeding as fatally flawed and a nullity. Attorney Keeffe, in response, threatened Petitioners with assurance that he would seek imposition of sanctions by the Court for defiance of "his" order.

When no application for Court imposition of sanctions was forthcoming for 12 days, Petitioners moved (on January 3, 1985) for a Directive of the Court in the premises. That Motion was ignored by the Court for <u>eighty days</u> <u>until March 21, 1985</u>. and on March 22, 1985 was summarily dismissed by the herein-named Respondent Judge John F. Doyle without explanation or discernible rationale.

More significantly, the named-

respondent Judge John F. Doyle, by U.S. Mail, served Order (Appendix "D") upon your Petitioners to discontinue conducting oral examination of the last four (4) of the eight handbill signatories (including the Respondents Bert H. and Mary A. Cooper) for a period of thirty days (March 27 through April 26, 1985).

Collaterally: The District of Columbia Court of Appeals subsequently summarily denied, **without opinion**, a Petition for Writ of Mandamus praying relief from Judge Doyle's thirty-day abridgement of Petitioner's 180-day period for Discovery. (Appendix "E")

To assure that Judge Doyle's 30-day "Stet" Order be -- unquestionably -- an abridgement of the Petitioners' period for Discovery, Defendants' attorney Keeffe appears to have, in Chambers,

obtained a never served Order from Superior Court Judge George W. Mitchell that there be no further discovery by Plaintiffs after May 8, 1985. (Appendix F and G)

(It is deemed unnecessary to show, item by item, all the of-record-futile attempts of Petitioners to conduct oral examination of the Respondents and the two remaining cosignatories to the handbill; and the specific tactics employed by the Respondents' Attorney to block such oral examination. Petitioners have a Superior Court Certified Record of proceedings in its Civil Action 10791-84 which they can provide for this Court, should the Court deem same appropriate to consideration of this Petition.)

In the expectation of relief from the abridgement of Discovery by appeal to

the Pretrial Judge under the suggestion of the Court's Rule 16 of Civil Procedure, Petitioners pointed out that the continuing deprivation of opportunity to examine Bert and Mary Cooper and others, coupled with the uninformative general denial constituting their Answer to the Complaint, rendered it impossible to name any witnesses other than impeachment witnesses (expressly exempted from the requirement of pretrial listing). The response of the Pretrial Judge, Hon. Paul F. McArdle, was a summary conclusion that your Petitioners were "in default", and their Complaint seeking jury trial was subject to dismissal for willful non-compliance with Rule 16.

Similarly "mooted" was the abortion of Petitioners' objection to the Respondents' filing of no pretrial statement whatever in compliance

with the "at-least-5-day-prior-to-conference" filing and service of such, mandated by the Court's Rule 16.

Considered in the light of the Pretrial Ruling of Default by Petitioners: this default by the Respondents can leave no doubt of pretrial denial of equal protection and due process vouchsafed by Amendment XIV, Section 1 of the U.S. Constitution.

To climax the aforesaid Pretrial Conference, the herein named Respondent Pretrial Judge Paul F. McArdle ruled Petitioner Henry Bartsch's pro se protests as a "Request for Dismissal" under the Court's Rule 41 of Civil Procedure.

Petitioners sought, but could not obtain a transcript of the less than 10-minute conference conducted by the Res-

pondent Judge Paul F. McArdle in his chambers. No reporter or recording was provided thereat.

Petitioners are advised, by a letter in the file of their Appeal No. 86-59 in the District of Columbia Court of Appeals, that that Court's Record of documents and Proceedings is assembled and immediately available for transmission to this Court.

Those papers will show that Petitioners have complied with every requirement of the D.C. Court of Appeals; that the Court declined to receive and consider the record developed in Civil Action 10791-84 in the Superior Court of the District of Columbia; that the Appeal was dismissed without findings of fact, conclusions of law, or a discernible rationale; and that Petitioners were

denied any conference whatever under that Court's newly ordained Rule 7A of Civil Procedure.

ISSUES

Under the circumstances presented in the foregoing Statement of Facts:

.1. The Petitioners have been denied Constitutionally guaranteed Due Process and Equal Protection of the Laws;

.2. The failure of the District of Columbia Court of Appeals to entertain the appeal taken in its case No. 86-59 is a deprivation of Petitioners' right to have Judicial Review and is clearly repugnant to Amendment XIV, section (1) of the Constitution of the United States.

JURISDICTION

The Supreme Court of the United States is endowed with plenary authority and discretion, under Title 28, Section 1651(a) of the United States Code, to

grant relief from unconstitutional proceedings in the Congressionally created Courts of the District of Columbia.

RELIEF SOUGHT

Petitioners pray:

.1. Issuance of an Order to the Honorable Julia Cooper Mack, Honorable Theodore R. Newman, Honorable Judith W. Rogers, Associate Judges of the District of Columbia Court of Appeals

and to the

Honorable John F. Doyle, Honorable George W. Mitchell,

and Honorable Paul F. McArdle Associate Judges of the Superior Court of the District of Columbia,

each and all,

to show cause, if any there be, why the 30-day abridgement of Petitioners' 180-day period for conduct of Pretrial discovery should not be forthwith restored; or, failing same, why an Extraordinary Writ of Mandamus should not issue to said Judges forthwith directing restoration of said 30-day abridgement of Plaintiff's' 180 day right to Pretrial Discovery.

and

Petitioners pray for issuance of an Order directed to Stephen Daniel Keeffe, a member of the Bar of this Court, to cooperate in securing to Petitioners fair opportunity to conduct lawful oral examination of his clients Bert H. Cooper and Mary A. Cooper and such other persons as may have information and documentary

material germaine to the issues in Civil Action 10791-84 in the Superior Court of the District of Columbia.

NO.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1985

In Re:

HENRY G. BARTSCH

and

WILMA M. BARTSCH

Petitioners

PETITION FOR WRIT OF MANDAMUS

.1. Your Petitioners Henry G. Bartsch and Wilma M. Bartsch, under the provisions of Title 28, Section 1651(a) of the United States Code, and Rule 21(a) of the Federal Rules of Appellate

procedure, respectfully petition this Honorable Court for issuance of an Order to Show Cause, if any there be, why the

Honorable Julia Cooper Mack,
Honorable Theodore R. Newman,
Honorable Judith W. Rogers,
Associate Judges of the
District of Columbia
Court of Appeals
and the
Honorable John F. Doyle,
Honorable George W. Mitchell,
and Honorable Paul F. McArdle
Associate Judges of the
Superior Court of the
District of Columbia

should not, insofar as it be within their respective individual or collective authority, to forthwith aid in restoration of Petitioners' full 180-day right

to discovery in Civil Action 10791-84 of the Superior Court of the District of Columbia, and

.2. Absent acquiesence in such restoration, or good cause shown, Petitioners pray: Issuance of an Extra-ordinary Writ of Mandamus directing said named-respondent Judges, their successors or alternates, to rescind the 30-day abridgement of Plaintiffs' Superior Court ordained right to a 180-day period for Pretrial discovery;

and

.3. Petitioners pray for issuance of an Order directed to Stephen Daniel Keeffe, a member of the Bar of this Court, to henceforth cooperate in securing to Petitioners fair opportunity to conduct lawful oral examination of his clients, respondents Bert H. Cooper and

Mary A. Cooper, and such other persons as may have information and documentary material germaine to the issues in Civil Action 10791-84 in the Superior Court of the District of Columbia.

REASONS FOR ISSUANCE OF THE ORDER TO SHOW CAUSE; OR FOR ISSUANCE OF A WRIT OF MANDAMUS

It is within the Constitutional and Statutory Authority and duty of the Supreme Court to correct abuses of judicial authority in Courts created and existing under Congressional Enactment.

It is submitted that the denial of relief from the herein-complained-of judgments of the District of Columbia Court of Appeals and the Superior Court of the District of Columbia made on conjecture unsupported by findings of fact and conclusions of law, would

undermine not only the respect of the Public, but of the Bar itself.

CONCLUSION

Your Petitioner, Henry G. Bartsch is 80 years of age. The sacrifices he has had to make to get this matter to the attention of this Court have been far in excess of his physical capacity to long endure, even for the security and good name of his dedicated wife and co-petitioner, Wilma M. Bartsch, a long-time contractor-servant of the U.S. District Court for the Eastern District of Maryland; the Office of the U.S. Attorney for the District of Columbia; the Interior Department; the Treasury Department; the Library of Congress; the Securities and Exchange Commission; and numerous other Agencies of the U.S.

U.S. Government and the District of Columbia Government, over a span of more than 35 years. Even the record of Argument before this Court in Sweet vs. Texas many years ago, will confirm existence of a letter of commendation for her distinguished service to this Court in an Emergency where the regular reporter(s) (2) were unavailable.

Respectfully submitted,

Henry G. Bartsch

Henry G. Bartsch

and

Wilma M. Bartsch

Wilma M. Bartsch
3601 34th Street, NW
Washington,D.C.20001
Tele. 362-8081

CERTIFICATE OF SERVICE

I, Wilma M. Bartsch, hereby certify that exact copies of the foregoing Petition for Writ of Mandamus were served by first-class mail, postage prepaid, upon the

Honorable Julia Cooper Mack,
Honorable Theodore R. Newman,
Honorable Judith W.Rogers,
Associate Judges of the
District of Columbia
Court of Appeals

and upon the

Honorable John F. Doyle,
Honorable Ronald P.Wertheim,
Honorable George W. Mitchell,
Honorable Paul F. McArdle
Associate Judges of the
Superior Court of the
District of Columbia,

at their addresses in the Judicial Bldg. at Indiana Ave. and John Marshall Place. Washington, D.C. 20001,

and upon the Office of the Corporation Counsel of the District of Columbia; 1350 E Street, N.W., Washington, D.C. 20001, and upon

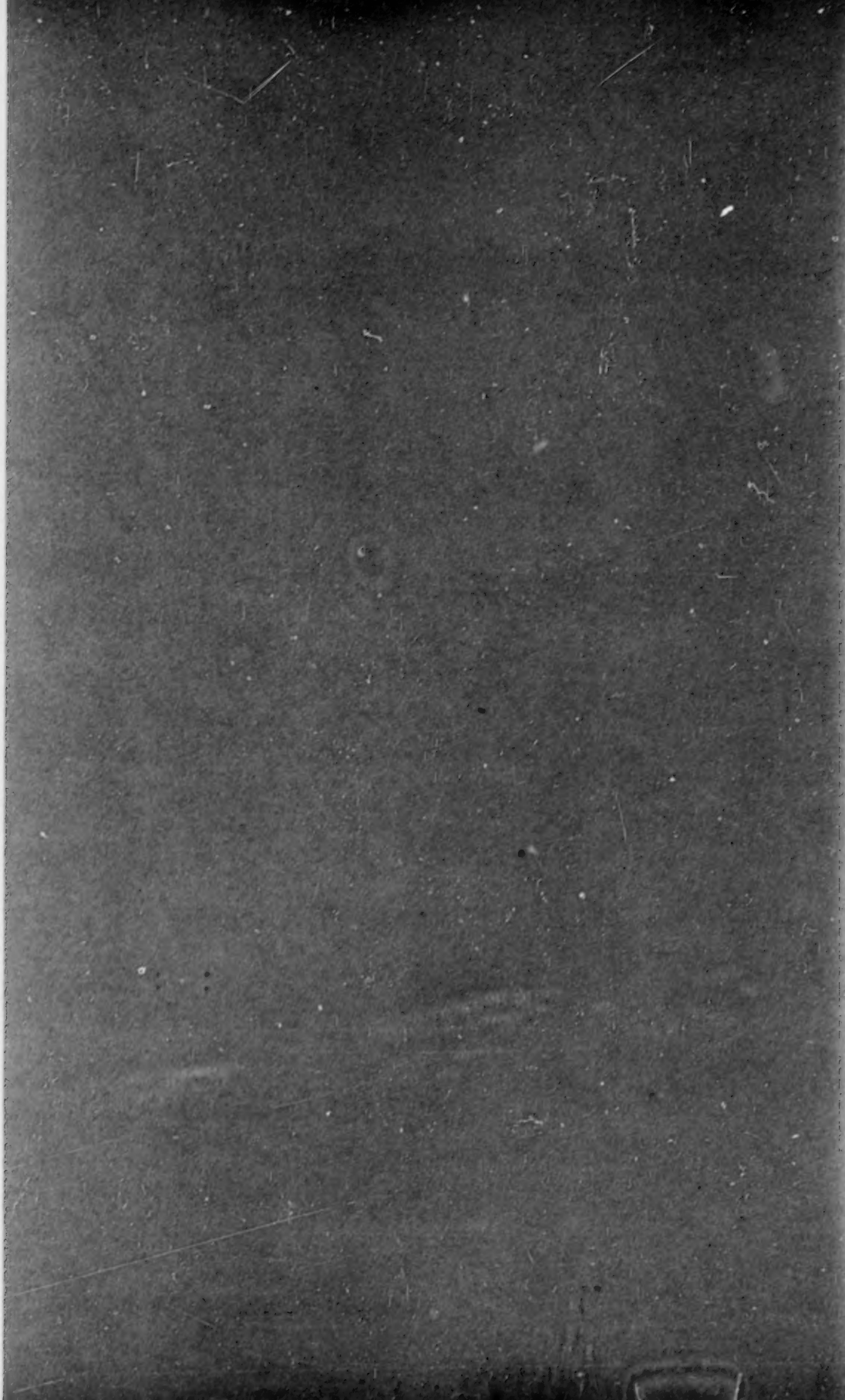
Stephen Daniel Keeffe, Esq.,(Attorney of Record for Respondents Bert H. Cooper and Mary A. Cooper in the proceedings below) 1625 I (Eye) Street, N.W., Suite 815, Washington, D.C. 20006.

on July 3rd, 1986

Wilma M. Bartsch

Wilma M. Bartsch

APPENDICES



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APPENDIX "C"

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Civil No. 10791-84 Calendar No. 4469-j

BARTSCH ET AL VS. COOPER ET AL

JOINDER OF ISSUE DATE: NOV 5 1984

In accordance with Superior Court Civil Rule 16 and 16-I, the above case is set for PRETRIAL on SEP 6 1985,

at 1:30 M. Failure to appear may result in a default or dismissal of the case. A trial date will be assigned by the Assignment Commissioner immediately after the pre-trial has taken place. Unless it is clearly impractical to do so, trial will be held within six weeks after the pretrial hearing. See SCR Civil Rules 26 and 12-I (amended September, 1980) for time limits on discovery and motions practice.

REPORT TO THE ASSIGNMENT OFFICE

Form CV(11)-1176/Aug. 80
81-P5169

JOSEPH WEST
Assignment Commissioner

APPENDIX "D"

SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA

CIVIL DIVISION

Filed Mar. 22, 1985

WILMA MILLER BARTSCH
HENRY G. BARTSCH,
Plaintiffs

v. Civil Action No. 10791-84

BERT H. COOPER
MARY A. COOPER
Defendants

ORDER

This matter came before the Court on March 21, 1985 for hearing on the following motions:

1. Plaintiffs' Motion for a Directive Governing the Conduct of Depositions;

2. Defendants' Motion for Dismissal of or, in the alternative, to Compel Answers to Questions of Oral Deposition;

3. Plaintiffs' Motion for an Order to Show Cause;

4. Defendants' Motion for a Protective Order;

5. Defendants' Motion for Summary Judgment;

6. Plaintiffs' Motion to Strike the Defendants' Motions for Summary Judgment and for a Protective Order and for an Order Extending Discovery; and

7. Plaintiffs' Motion to Stay Hearing on Defendants' Motion for Summary Judgment.

Upon consideration of the aforesaid Motions, the Oppositions thereto, the parties' respective points and authorities in support thereof and in opposition thereto,and the arguments of the parties heard in open court, it is this 22 day of March, 1985

O R D E R E D:

1. That the Plaintiffs submit to individual depositions within thirty (30) days of the date of this Order which depositions may be held at the offices of Defendants' counsel;

2. That all other discovery in the instant case be and the same hereby is stayed pending the depositions of Plaintiffs as aforesaid;

3. That the Plaintiffs' Motion for a Directive Governing the Conduct of Depositions be and the same hereby is denied;

4. That Defendants' Motion for Dismissal be and the same hereby is Denied;

5. That the Plaintiffs' Motion for an Order to Show Cause be and the same hereby is Denied;

6. That Defendants' Motion for a Protective Order be and the same hereby is Denied;

7. That Plaintiffs' Motion to Strike the Defendants' Motions for Summary Judgment and for a Protective Order be and the same hereby is Denied;

8. That Plaintiffs' Motion to Stay Hearing on Defendants' Motion for Summary Judgment be and the same hereby is Denied;

9. That Defendants' Motion for Summary Judgment on the ground asserted be and the same hereby is Denied without prejudice to the filing of a further Motion for Summary Judgment on such other grounds as may appear to exist; and

10. That all parties' requests for attorneys' fees and court costs in connection with the aforesaid motions be

the same hereby are Denied.

/s/ John F. Doyle

J U D G E

cc: Wilma Miller Bartsch
Henry G. Bartsch
3601 34th Street, N.W.
Washington, D.C. 20008

Stephen D. Keefe, Esq.
1625 Eye Street, N.W.
Suite 815
Washington, D.C. 20006

APPENDIX "E"

District of Columbia Court of Appeals
500 Indiana Avenue, N.W.
Washington, D.C. 20001

(Filed April 30, 1985)

No. 85-451

WILMA MILLER BARTSCH, et al., Petitioners,

v.

CA20792-84

HONORABLE JOHN F. DOYLE, Respondent.

BEFORE: Pryor, Chief Judge; and Belson, Associate Judge.

O R D E R

On consideration of the petition for writ of mandamus, it is

ORDERED that the petition is denied.

PER CURIAM

Copies to:

Honorable John F. Doyle

Clerk, Superior Court

Ms. Wilma Miller Bartsch
Mr. Henry G. Bartsch
3601 34th Street, N.W.
Washington, D.C. 20008

Stephen D. Keefe, Esquire
1625 Eye Street, N.W.
Suite 815
Washington, D.C.

APPENDIX "F"

LAW OFFICES OF
KEEFFE & HART
1625 "I" STREET N.W., SUITE 815
WASHINGTON, DISTRICT OF COLUMBIA
20006
(202)887-0620

May 7, 1985

Mr. Henry G. Bartsch
Mrs. Wilma Miller Bartsch
3601 - 34th Street, N.W.
Washington, D.C. 20005

Dear Mr. & Mrs. Bartsch:

Please advise this office if you intend to take my clients' deposition on Wednesday, May 8, 1985, the last day for discovery in this case. If I do not hear from you, I will assume you have decided their depositions are unnecessary for your case.

Very truly yours,

/s/ Stephen D. Keeffe
Stephen D. Keeffe

SDK:rb MAILGRAM TO STEPHEN D. KEEFFE, SUITE 815, 1625 EYE STREET, N.W., WASHINGTON, D.C. 20006, TELEPHONE 887-1620:

RESPONSIVE TO THE MAY 7TH-DATED LETTER YOU HAND-DELIVERED INTO MY U.S. MAIL BOX THIS AFTERNOON, BE ADVISED THAT NEITHER WILMA MILLER

BARTSCH NOR HENRY G. BARTSCH HAVE BEEN SERVED WITH AN ORDER OF OFFICIAL ADVICE FROM THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA THAT WE MUST ORALLY EXAMINE YOUR CLIENTS BERT H. AND MARY A. COOPER, AT 11:A.M., MAY 8, 1985.

REGARDLESS OF THAT FACT, BE FURTHER ADVISED THAT I HAVE AN UNALTERABLE PRIOR COMMITMENT WEDNESDAY, MAY 8, 1985, TO MELVIN ANTHONY MARSHALL, ESQ., MY ATTORNEY OF RECORD IN CIVIL ACTION NO. 3027-85, TO DISCUSS WITH HIM AND PREPARE FOR A HEARING IN THAT CASE SCHEDULED FOR THE FOLLOWING MORNING, THURSDAY, MAY 9, 1985, IN THIS COURT.

BE ADVISED, ALSO, THAT I HAVE NOT "DECIDED THAT THEIR (BERT H. AND MARY A. COOPER'S) DEPOSITIONS ARE UNNECESSARY FOR (Y)OUR CASE"; NOR HAS THE COURT SO RULED. YOUR THREATENED ASSUMPTION IS, THEREFORE, CHARACTERISTICALLY ERRONEOUS.

WILMA MILLER BARTSCH
3601 34TH STREET, N.W.
WASHINGTON, D.C. 20008
TELE. 362-8081

APPENDIX "G"

SUPERIOR COURT FOR THE
DISTRICT OF COLUMBIA

(Civil Division)

WILMA MILLER BARTSCH)

)Civil Action No.
10791-84

and)
HENRY G. BARTSCH
3601 34th Street, N.W.)
Washington, D.C. 20008

)

Plaintiffs

)

v.

)

BERT H. COOPER
and)
MARY H. COOPER
3313 Porter Street, N.W.)
Washington, D.C. 20008

Defendants)

ORDER

This matter was presented, on notice, to the Judge in Chambers, to reschedule the depositions of Defendants set for Saturday, May 4, 1985. Upon consideration of Defendants' written

Motion, Points and Authorities together with supporting Affidavit and requested Order, and the file in this case, it is this 2nd day of May, 1985

ORDERED that, the deposition of Defendants be set for May 8,1985 at 11:00 a.m., and it is further

ORDERED that, the discovery in this matter be extended thru May 8, 1985.

SO ORDERED, May 3, 1985.

/s/ George W. Mitchell
Judge, Superior Court for the
District of Columbia

APPENDIX M

District of Columbia
Court of Appeals

No. 86-59 FILED MAR. 11, 1986

WILMA MILLER, ET AL.,
Appellants,

v. CA10791-84

BERT H. COOPER, ET AL.,
Appellees.

BEFORE: Mack, Newman, and Rogers,
Associate Judges.

O R D E R

On consideration of the motion of appellees to dismiss appeal and for award of attorney fees, and the opposition of appellants thereto, it is

ORDERED that the motion to dismiss is granted and this appeal is hereby dismissed.

PER CURIAM.

Copies to:

Honorable Paul F. McArdle

Clerk, Superior Court

Ms. Wilma Miller
3601 34th Street, N.W.
Washington, D.C. 20008

Stephen Daniel Keeffe, Esquire
1625 I Street, N.W.
Suite 815
Washington, D.C. 20006

85-2171

June 18, 1986

Hon. Joseph Spaniol
Clerk of the Superior Court
of the United States

Sir:

We forward herewith the Appendix designated in our Petition for Writ of Mandamus transmitted June 9, 1986.

In compliance with Rule 27.2(a) of the Supreme Court, we have included the Order of the D.C. Court of Appeals dismissing Appeal No. 86-59 on March 11, 1986.

We cannot explain why the Order identified the Plaintiff-co-Appellant Wilma Bartsch by her maiden name.

May we express our thanks for the courtesy which was accorded us by your busy staff.

Respectfully,

Wilma A. Miller Bartsch

Henry G. Bartsch

3601 34th Street, N.W.
Washington, D.C. 20008
(202) 362-8081

NO.

IN THE

SUPREME COURT OF THE UNITED STATES
October Term 1985

Re:

HENRY G. BARTSCH
and
WILMA A. BARTSCH — Petitioners

vs

BERT H. COOPER
and
MARY A. COOPER
et al — Respondents

APPENDIX TO PENDING PETITION FOR WRIT OF MANDAMUS TO THE SUPREME COURT OF THE UNITED STATES

HENRY G. BARTSCH
WILMA A. BARTSCH
pro se
3601 34th Street, NW
Washington, D.C.
Tele. 362-8081

A P P E N D I X

Abstracts Supporting Petitioners' Plea for Supreme Court Acceptance of Certified Record Offered.

ITEM		REFERENCED at
A	Complaint	p.1
B	Answer	p.1
C	180-Day Discovery Notice	p.1
D	30-day "Stet" Order of Doyle, J. 3/22/85	p.4
F	Letter of Defendant's Counsel dated 5/7/'85 and immediate telegraphic reply thereto	p.4
G	File Jacket Entry adopting Defense Counsel's ex-parte interpretation of "30-day Stet" as Abridgement of Plaintiffs' 180-day right to discovery	pp.4,5
H	Amendment XIV(1) U.S. Constitution	pp.6,7
I	Civil Rule 16(a)(5) of D.C. Superior Court	p.6
J	Civil Rule 16(e)(1)(a) of D.C. Superior Court	p.7
K	File Jacket Order 10/22/85 "Pl's (sic) Request for Dismissal Granted" McArdle	pp.7,8
L	Notice of Appeal 11/19/85	

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

M Summary Dismissal by D.C. Court of Appeals--without Record below or hearing--on Def. Counsel's representation "the Appeal is frivolous." p.8

(Please note: The Court's Substitution of "Wilma A. Miller" as Appellant in its Dismissal Order of 3/11/86 in No. 86-59 is unexplained)

Respectfully submitted,

Henry G. Bartsch

Wilma A. Bartsch

Wilma A. Bartsch
Petitioners pro se
3601 34th Street, N.W.
Washington, D.C. 20008
Tele. 362-8081

APPENDIX A

FILED
SEP 14 1984
Superior Court
of the District of Columbia
Washington, D. C.

SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA

Civil Division

WILMA MILLER BARTSCH
and
HENRY G. BARTSCH,
3601 34th Street, N. W.
Washington, D.C. 20008
347-0224 -- 362-8081
Plaintiffs

v.

BERT H. COOPER
and
MARY A. COOPER,
3313 Porter Street, N.W.
Washington, D.C. 20008
Defendants

C.A. 11791-84

Civil Action 84-

MICROFILM

SEP 10 1984

COMPLAINT FOR DAMAGES (Libel)

1. The plaintiffs and defendants named in this Complaint are, each, residents and citizens of the District of Columbia; and the District of Columbia is the locus of the acts and conduct complained of herein.

2. Jurisdiction of this Court is invoked under the authority of Title XI, section 921 of the D.C. Code (1981) as amended.

3. On Saturday, August 25, 1984, and for a substantial period before said date, the defendant Bert H. Cooper with the connivance and participation of the defendant Mary A. Cooper, his wife, composed and made copies of a handbill, one facsimile of which is here incorporated as part and parcel of the text of this complaint, as follows:

PETITION OF COMPLAINT in re 3601 34th St. NW

If you want to join the 75+ who've signed, call at 3313 Porter St.

We, the undersigned, being residents of Cleveland Park in the district of Advisory Neighborhood Commission 3-C, request that the authorities of the District of Columbia enforce all municipal ordinances concerning environmental standards, building codes, and property maintenance in regard to the property at 3601 34th Street, N.W., following inspection of these premises and determination of any violations of environmental, health, building, and property regulations.

During the past ten years, this property, located at the northeast corner of 34th and Porter Streets, has deteriorated to the point that it is an example of visual pollution without equal in the neighborhood. Indeed, it is widely known in the area as the "house with the old cars in the yard," referring to three derelict vehicles in full view from the street. One of these has been there since the mid-1960s. The apparently abandoned and inoperable automobiles have harbored several generations of rats. The residents of 3601 34th St. NW, Henry G. Bartsch and Wilma A. Miller, have demonstrated no interest in removing these junked cars, despite repeated requests from the neighbors over the years.

Therefore, we, the undersigned, do petition the District of Columbia to take whatever legal and administrative measures may be available and appropriate to abate the public nuisance that these derelict vehicles represent.

NAME (full name printed, followed by signature)		ADDRESS
COOPER, BERT H.	Bert H. Cooper	3313 Porter St.NW
COOPER, MARY A.	Mary A. Cooper	3313 Porter St.NW
LAWLER, PHILIP	Philip Lawler	3311 Porter St.NW
LAWLER, LEILA	Leila Lawler	3311 Porter St.NW
KOUTSANDREAS, ANNA	Anna Koutsandreas	3603 34th St.NW
E. Sheldon Leggett	E. Sheldon Leggett	3607 34th St
M C Allen		3426 Porter St
Louise Verrot		3309 Porter St

4. The handbill was, on August 25, 1984, published by the Defendant Bert H. Cooper against the herein plaintiffs Wilma Miller Bartsch and Henry G. Bartsch by posting at eye level alongside the north pedestrian walkway of Porter Street N.W., east of Thirty-fourth Street N.W. in the District of Columbia; and said handbill or facsimiles thereof were also widely published by the defendants Bert H. and Mary A. Cooper at numerous other locations in the District of Columbia during the month of August, 1984.

5. The defendants Bert H. Cooper and Mary A. Cooper, as of August 25, 1984 and before, well knew that said handbill tortiously recited salient false and misleading allegations, implications and innuendo artfully assembled with intent to alarm, prejudice and alienate friends and neighbors of the plaintiffs Wilma Miller Bartsch and Henry G. Bartsch.

6. The defendants' composition and publication of said handbill and/or facsimiles thereof, as set forth in the allegations of paragraphs 3, 4 and 5 of this Complaint, was unprivileged, unlawful, and a libel against the plaintiffs Wilma Miller Bartsch and Henry G. Bartsch.

7. The plaintiffs Wilma Miller Bartsch and Henry G. Bartsch, as the direct consequence of the

aforesaid publication of said handbill, have experienced and been caused to endure intense embarrassment and emotional strain; and have suffered such impairment of their marriage and their association in the conduct and output of the professional business of the plaintiff Wilma Miller Bartsch as to be incapable of compensation by recovery of damages in any sum less than Twenty-five Thousand Dollars ($25,000).

8. The plaintiff Wilma Miller Bartsch is the person identified in the aforesaid published handbill as "Wilma A. Miller": her unmarried name. She is the lawful wedded wife of the plaintiff Henry G. Bartsch.

WHEREFORE:

Upon judicial establishment of the truth of their foregoing allegations, the plaintiffs Wilma Miller Bartsch and Henry G. Bartsch jointly pray the Court for judgment in their favor, and for the award of compensatory damages against the defendants Bert H. Cooper and Mary A. Cooper in the amount of Twenty-five thousand dollars ($25,000); and for an award of Ten Thousand dollars ($10,000) as exemplary damages, plus such further or other relief, including retrieval of the costs of this suit and any appeal therefrom, as may to

the Court upon the trial of this cause of action appear mete and proper.

Trial by jury is demanded.

Wilma Miller Bartsch

Wilma Miller Bartsch

Plaintiff, pp.

Henry G. Bartsch

Henry G. Bartsch

Plaintiff, pp.

Subscribed and sworn to before me, a Deputy Clerk of the Superior Court of the District of Columbia this 4th day of September, 1984.

Glorin Smith

Glorin Smith
Deputy Clerk

Deputy Clerk
Superior Court
of the
District of Columbia

A TRUE COPY
TEST:
JUN 4 1986
Clerk, Superior Court of
the District of Columbia
Deputy Clerk

APPENDIX B

SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA

FILED
OCT 18 1984
Superior Court
of the District of Columbia
Washington, D. C.

WILMA MILLER BARTSCH
and
HENRY G. BARTSCH
3601 34th Street, N.W.
Washington, D.C. 20008

v.

BERT H. COOPER
and
MARY A COOPER
3313 Porter Street, N.W.
Washington, D.C. 20008

Civil Action No. 10791-84

FILED
OCT 22 1984
Superior Court
of the District of Columbia
Washington, D. C.

ANSWER TO PLAINTIFF's COMPLAINT

Comes now the Defendants, BERT H. COOPER and MARY A COOPER, and in answer to the Complaint filed herein state as follows:

1. Defendants admit the allegation of paragraph one of the Complaint.

2. Defendants admit the allegation of paragraph two of the COmplaint.

3. Defendants deny the allegation of paragraph three of the Complaint.

4. Defendants deny the allegation of paragraph four of the Complaint.

5. Defendants deny the allegation of paragraph five of the Complaint.

6. Defendants deny the allegation of paragraph six of the Complaint.

7. Defendants are without sufficient information to deny or admit the allegation of paragraph seven of the Complaint, and therefore, denies same and demands strict proof thereof.

8. Defendants are without sufficient information to deny or admit the allegation of paragraph eight of the Complaint and therefore, denies same and demands strict proof thereof.

WHEREFORE, having fully answered, your Defendants, BERT H. AND MARY A. COOPER, pray that the aforementioned Complaint be dismissed against them, and that Defendants be awarded costs and fees incurred herein, including attorneys fees.

Respectfully submitted,
LAW OFFICES OF KEEFFE AND HART

By: _____

Stephen Daniel Keeffe
Bar No. 127951
1625 Eye Street, N.W.
Suite 815
Washington, D.C. 20006
(202) 887-0620

CERTIFICATE OF SERVICE

I herby certify that a copy of the foregoing Answer was mailed first class, postage prepaid to Wilma Miller Bartsch and Henry G. Bartsch, 3601 34th Street, N.W., Washington, D.C. 20008, on the 15th day of October, 1984.

Stephen Daniel Keeffe

A TRUE COPY
TEST:
OCT 4 1986
Clerk, Superior Court of
the District of Columbia
by
Deputy Clerk

APPENDIX C

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Civil No. 10791-84 Calendar No. 4469-j

BARTSCH ET AL VS. COOPER ET AL

JOINDER OF ISSUE DATE: NOV 5 1984

In accordance with Superior Court Civil Rule 16 and 16-I, the above case is set for PRETRIAL on SEP 6 1985, at 1:30 M. Failure to appear may result in a default or dismissal of the case. A trial date will be assigned by the Assignment Commissioner immediately after the pre-trial has taken place. Unless it is clearly impractical to do so, trial will be held within six weeks after the pretrial hearing. See SCR Civil Rules 26 and 12-I (amended September, 1980) for time limits on discovery and motions practice.

REPORT TO THE ASSIGNMENT OFFICE

Form CV(11)-1176/Aug. 80
81-P5169

JOSEPH WEST
Assignment Commissioner

APPENDIX D

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

CIVIL DIVISION

FILED
MAR 22 1985
Superior Court
of the District of Columbia
Washington, D.C.

WILMA MILLER BARTSCH
HENRY G. BARTSCH,
Plaintiffs

v. Civil Action No. 10791-84

MICROFILM
RECEIVED FOR DOCKETING
Civil Clerk's Office
MAR 22 1985
Superior Court of the
District of Columbia

BERT H. COOPER
MARY A. COOPER,
Defendants

ORDER

This matter came before the Court on March 21, 1985 for hearing on the following Motions:

1. Plaintiffs' Motion for a Directive Governing the Conduct of Depositions;

2. Defendants' Motion for Dismissal or, in the Alternative, to Compel Answers to Questions of Oral Deposition;

3. Plaintiffs' Motion for an Order to Show Cause;

4. Defendants' Motion for a Protective Order;

5. Defendants' Motion for Summary Judgment;

6. Plaintiffs' Motion to Strike the Defendants' Motions for Summary Judgment and for a Protective Order and for an Order Extending Discovery; and

7. Plaintiffs' Motion to Stay Hearing on Defendants' Motion for Summary Judgment.

Upon consideration of the aforesaid Motions, the Oppositions thereto, the parties' respective points and authorities in support thereof and in opposition thereto, and the arguments of the parties heard in open court, it is this 22 day of March, 1985:

O R D E R E D:

1. That the Plaintiffs submit to individual depositions within thirty (30) days of the date of this Order which depositions may be held at the offices of Defendants' counsel;

2. That all other discovery in the instant case be and the same hereby is stayed pending the depositions of the Plaintiffs as aforesaid;

MFLD

MAR 22 1985

3. That Plaintiffs' Motion for a Directive Governing the Conduct of Depositions be and the same hereby is Denied;

4. That Defendants' Motion for Dismissal be and the same hereby is Denied;

5. That Plaintiffs' Motion for an Order to Show Cause be and the same hereby is Denied;

6. That Defendants' Motion for a Protective Order be and the same hereby is Denied;

7. That Plaintiffs' Motion to Strike the Defendants' Motions for Summary Judgment and for a Protective Order be and the same hereby is Denied;

8. That Plaintiffs' Motion to Stay Hearing on Defendants' Motion for Summary Judgment be and the same hereby is Denied;

9. That Defendants' Motion for Summary Judgment on the ground asserted be and the same hereby is Denied without prejudice to the filing of a further Motion for Summary Judgment on such other grounds as may appear to exist; and

10. That all parties' requests for attorneys' fees and court costs in connection with the aforesaid motions be and the same hereby are Denied.

JUDGE

cc: Wilma Miller Bartsch
Henry G. Bartsch
3601 34th Street, N.W.
Washington, D. C. 20008

Stephen D. Keefe, Esq.
1625 Eye Street, N. W.
Suite 815
Washington, D. C. 20006

A TRUE COPY
TEST: JUN 4 1986
Clerk, Superior Court of the District of Columbia
By _____ Deputy Clerk

APPENDIX F-

LAW OFFICES OF
KEEFFE & HART
1625 "I" STREET, N.W., SUITE 815
WASHINGTON, DISTRICT OF COLUMBIA 20006
(202) 887-0620

May 7, 1985

Mr. Henry G. Bartsch
Mrs. Wilma Miller Bartsch
3601 - 34th Street, N.W.
Washington, D.C. 20005

Dear Mr. & Mrs. Bartsch:

Please advise this office if you intend to take my clients' deposition on Wednesday, May 8, 1985, the last day for discovery in this case. If I do not hear from you, I will assume you have decided their depositions are unnecessary for your case.

Very truly yours,

Stephen D. Keeffe

SDK:rb

MAILGRAM TO STEPHEN D. KEEFFE, SUITE 815, 1625 EYE STREET, N.W., WASHINGTON, D.C. 20006, TELEPHONE 887-0620:

RESPONSIVE TO THE MAY 7TH-DATED LETTER YOU HAND-DELIVERED INTO MY U.S. MAIL BOX THIS AFTERNOON, BE ADVISED THAT NEITHER WILMA MILLER BARTSCH NOR HENRY G. BARTSCH HAVE BEEN SERVED WITH AN ORDER OR OFFICIAL ADVICE FROM THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA THAT WE MUST ORALLY EXAMINE YOUR CLIENTS BERT H. AND MARY A. COOPER, AT 11:A.M., MAY 8, 1985.

REGARDLESS OF THAT FACT, BE FURTHER ADVISED THAT I HAVE AN UNALTERABLE PRIOR COMMITMENT WEDNESDAY, MAY 8, 1985, TO MELVIN ANTHONY MARSHALL, ESQ., MY ATTORNEY OF RECORD IN CIVIL ACTION NO. 3027 -85,TO DISCUSS WITH HIM AND PREPARE FOR A HEARING IN THAT CASE SCHEDULED FOR THE FOLLOWING MORNING, THURSDAY, MAY 9, 1985, IN THIS COURT.

BE ADVISED, ALSO, THAT I HAVE NOT "DECIDED THAT THEIR (BERT H. AND MARY A. COOPER'S) DEPOSITIONS ARE UNNECESSARY FOR (Y)OUR CASE"; NOR HAS THE COURT SO RULED. YOUR THREATENED ASSUMPTION IS, THEREFORE, CHARACTERISTICALLY ERRONEOUS.

WILMA MILLER BARTSCH
3601 34TH STREET, N.W.
WASHINGTON, D.C. 20008
TELE. 362-8081

CA 10791-84

64

Superior Court of the District of Columbia

CIVIL ACTIONS BRANCH

4414-5

WILMA MILLER BARTSCH
HENRY G. BARTSCH

FOR APPENDIX ITEM "G" SEE ATTACHED PAGE 2

VERSUS

ERT H. COOPER
MARY A. COOPER

A TRUE COPY
TEST: JUN 4 1986
Clerk, Superior Court of the District of Columbia
By _____ Deputy Clerk

FF

VOL. 1

DATE	COURT CLERK'S MEMORANDUM	JUDGE
2/5/85	?	
2/13/85	Pltfs. and defts' atty. present. Case called as a preliminary matter. Defts' motion to Quash Subpoenas is granted. Pltfs' motion to Show Cause to be heard in the regular course.	
FEB 26 1985	Motion Set For Hearing, MAR 21 1985 10:00 Motions Docket	26 ago 2 26 3-15
3/21/85	Case taken under advisement	3/21/85
3/21/85	Pltfs-Plaintiffs and Atty-Koffle present. Ct. to Pltfs to submit to ct. and counsel depositions within 30 days of the date which depositions may be held at the offices of defts counsel. All other discovery as stayed pending the depositions of Pltfs. Pltfs motion for a Protective Order in the Court's Order denied. Defts motion for Rule 11 sanctions denied. Pltfs motion	

MICROFILM MAR 1985

	for summ. judg. to show cause ... denied. Defts motion for a protect... order is denied. Pltf's motion to strike defts motions for Summary Judgment and for a Protective Order is denied. Pltf's motion to stay Hearing on Defts motion for Summary Judgment is denied. Defts motion for Summary Judgment on the ground asserted is denied without prejudice to filing a further motion for summary judgment, etc. All parties request for attys fees and cost denied. Order signed and filed. Copy mailed to all parties. MICROFILM MAR 27 1985
3/28/85	Order to show cause signed. L — filed
4/22/85	Pltf & Def plaintiff and atty Koiffe present. Show Cause hearing to be reset by the A.O. with notice to all parties. (Notices mailed to all parties 5-1-85 from A.O.) filed
5-3-85	Order signed & filed for deposition to be set for 5-8-85. At that time (MAY) with discovery in this Matter be extended thru May 24 MICROFILM
MAY 10 1985	Parties present for Hearing on defts motion for contempt heard and is hereby denied. Defts request for atty's Fees, is taken under advisement JUN 7 1985

J. J. Kennedy

4 Jun 85- Order filed denying defts' motion for attorney's fees (n/s) MICROFILM Kennedy, J

APPENDIX C

A TRUE COPY
TEST: JUN 4 1986
Clerk, Superior Court of the District of Columbia
by _____ Deputy Clerk

JUL 18 1985

APPENDIX H

ARTICLE XIV

Citizenship Rights Not to Be Abridged.

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

APPENDIX I

SUPERIOR COURT OF D.C. - CIVIL RULES

RULE 16

PRETRIAL CONFERENCES; SHEDULING; MANAGEMENT

(a) PRETRIAL CONFERENCES; OBJECTIVES; EXCLUDED CASES. In every Civil II jury action (except for Small Claims and Landlord and Tenant cases) and in every Civil II non-jury action in which a claim for relief exceeds $10,000 or title to or ownership of real property is at issue, the Court shall direct the attorneys for the parties and any unrepresented parties to appear before it for a conference or conferences before trial for such purposes as

(1) expediting the disposition of the action;

(2) establishing continuing control so that the case will not be protracted because of lack of management;

(3) [VACANT]

(4) improving the quality of the trial through more thorough preparation; and

(5) facilitating the settlement of the case.

If the Court determines in any other Civil II case, upon motion of a party or upon its own initiative, that the interests of justice so require, it shall direct the attorneys for the parties and any unrepresented parties to appear before it for a conference or conferences pursuant to this rule. The Court shall send notice of the date of any conference held under this rule no later than thirty (30) days before the date of the conference unless it is infeasible to do so. In Civil I cases or in cases assigned to a single judge for all purposes, the judge assigned to the case shall be responsible for scheduling pretrial dates and for otherwise controlling the course of the litigation. However, to the extent applicable, this rule shall also apply to such cases unless the judge assigned to the case has otherwise ordered.

(b) [VACANT]

(c) SUBJECTS TO BE DETERMINED AT PRETRIAL CONFERENCES. At any pretrial conference held under this rule, the Court shall consider and may take action with respect to

Please Disregard Underscoring

#903

 COPYRIGHT, 1985

APPENDIX J

RULE 16(e) September 1, 1985

SUPERIOR COURT ~~OF D.C.~~ CIVIL RULES

(e) PRETRIAL STATEMENTS AND ORDERS.

(1) Pretrial Statements. At least five (5) days before any conference held pursuant to this rule, each party shall file with the Court and serve on opposing parties a pretrial statement in substantially the same form as prescribed in Civil Actions Form 103. The pretrial statement shall also include

(A) Witnesses. A list of all witnesses, with their current addresses and phone numbers, sought to be called at trial. Unless a witness is listed on one of the parties' pretrial statements, that witness may not be called at trial except for rebuttal or impeachment purposes or otherwise for good cause shown.

(B) Exhibits. A list of all exhibits sought to be introduced at trial. Unless an exhibit is listed on one of the parties' pretrial statements, that exhibit may not be introduced at trial except for rebuttal or impeachment purposes or otherwise for good cause shown.

(2) Pretrial Orders. After any conference held pursuant to this rule, an order shall be entered reciting the action taken. This order shall control the subsequent course of the action unless modified by a subsequent order. In complex cases or where novel issues may be present, the pretrial judge may order the parties to file and serve, no later than five (5) days before trial, a memorandum of law in support of the relief sought by a party or a defense asserted in the action. The order following a final pretrial conference shall be modified only to prevent manifest injustice.

Please disregard underscoring

H.9.B

Superior Court of the District of Columbia

CIVIL ACTIONS BRANCH

WILMA MILLER BARTSCH
and HENRY G. BARTSCH

FOR APPENDIX ITEM K
SEE BELOW

VERSUS

BERT H. COOPER
and MARY A. COOPER

VOL. #2

DATE	APPENDIX K	COURT CLERK'S MEMORANDUM	JUDGE
10-21-85	Pl's Request for Dismissal granted		
11/19/85	Notice of Appeal filed		MIC

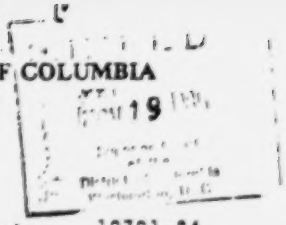
A TRUE COPY
TEST:
JUN 4 1986
Clerk, Superior Court
District of Columbia
By
Deputy Clerk

85-10791

APPENDIX L

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

NOTICE OF APPEAL



WILMA MILLER BARTSCH
HENRY G. BARTSCH

Vs.

Docket Number 10791-84

BERT H. COOPER
MARY A. COOPER

A Notice is hereby given that Wilma Miller Bartsch and Henry G. Bartsch, jointly appeal to the District of Columbia Court of Appeals from the (judgment) (order) of the Civil Division of this Court entered on the 22nd day of October, 19 85, by the Honorable Associate Judge Paul F. McArdle.

Description of judgment or order: Voluntery dismissal on Ruling of willful default of Plaintiffs.

Issues to be presented by appellant on appeal: See Attachment "A" hereto appended

B ☒ Jury Trial ☐ Trial by Court ☐ Other **C** ☐ Contract ☒ Tort ☐ Other

D Defendant's address:

Current Status: ☐ On Bond ☐ Confined at:

Convictions:

☐ Juvenile ☐ Felony ☐ Misdemeanor ☐ Traffic ☐ District of Columbia

Names(s) of Co-defendant(s):

E State the dates and portions of the transcript needed on appeal. (Unless specifically requested here, no portions(s) of the transcript will be provided)

☐ In Forma Pauperis ☐ C J A ☒ Paid

DATES	PORTIONS OF TRANSCRIPT REQUESTED	COURT REPORTER
October 22, 1985	ALL	Unknown

F Names and addresses of parties or attorneys to be served:

NAME	ADDRESS
Stephen Daniel Keeffe, Esq.	R. 825, 1625 Eye Street, N.W.
Defendants' Attorney of record	Washington, D.C. 20006

G Notice of Appeal filed by:

☐ Atty. for Govt. ☐ Defendant ☒ Plaintiffs ☐ Defendant Pro-Se

Printed Name of Atty. for Appellant

Signature of Atty. for Appellants

Address: 3601 34th Street, N.W., Washington, D.C. 20008

Unified Bar No. xxxxx Telephone No. 362-8081

NOTE: Sections A, B, E, F and G to be completed in all cases. Section C to be completed in Civil Division cases only. Section D to be completed in Criminal and Juvenile cases only. File an original and eight (8) copies with the Clerk of the Court per District of Columbia Court of Appeals Rules.

ATTACHMENT "A"

Issues to be presented
by Appellants

-I-

Did the Judge irregularly assigned to Pretry Civil Action 10791-84 in derogation of Civil Rule 16 of The Superior Court of the District of Columbia,

ERR JUDICIALLY
in his chambers on Tuesday, October 22, 1985,

by summarily concluding as a matter of law, that the Plaintiffs Wilma Miller Bartsch and Henry G. Bartsch had by willful default under Rule 16 forfeited Right to Jury Trial for failure to List, on or before October 16, 1985, the names and addresses of

IMPEACHMENT WITNESSES

who have in Depositions and an Affidavit filed without objection in Civil Action 10791-84, on oath undeniably repudiated and impeached the Defendants' October 18, 1984-filed Answer to the Plaintiffs' Suit for Libel?

-II-

Did the Judge irregularly assigned to Pretry Civil Action 10791-84 in derogation of Civil Rule 16 of The Superior Court of the District of Columbia

ERR JUDICIALLY
in his Chambers on Tuesday, October 22, 1985,
by summarily concluding as a matter of law, that the Rule 16 Pretrial Statement which the Plaintiffs personally served and filed on October 16, 1985 embodies willful Plaintiff Default and, therethrough, constructive Voluntary Dismissal for failure to conjecture and therein list with clairvoyant foresight, names and addresses of additional witnesses whose testimony will rebut and impeach a Replacement Defense (Confession and Avoidance) which the Defendants put in the mail Friday, October 18, 1985, after twelve months of Court-indulged concealment and Pretrial Discovery abridgement.

The Plaintiffs here give Notice of and challenge the October 22, 1985 finalization of the Court's Last Chance and Duty to restore Plaintiffs' asserted Fourteenth Amendment-Guaranteed Unabridgement of Procedural Right to Pre -trial Discovery in Civil Action 10791-84.

With the expectation of expedited adjudication by the District of Columbia Court of Appeals, this Issue will be presented by Petition for grant of an Extraordinary Writ of Mandamus to be separately docketed with the docketing of this Appeal.

Henry G. Bartsch

Helen Miller Bartsch

Plaintiffs-Appellant

Personal service of the
foregoing "Notice of Appeal"
and Attachment acknowledged.
November 19, 1985

_____

Attorney for Defendants-Appellees
by

_____

A TRUE COPY
TEST: JUN 4 1986
Clerk, Superior Court of
the District of Columbia
By
Deputy Clerk

APPENDIX M

District of Columbia Court of Appeals

DISTRICT OF COLUMBIA
COURT OF APPEALS
FILED MAR 11 1986
Clerk

No. 86-59

WILMA MILLER, ET AL.,

Appellants,

v.

CA10791-84

BERT H. COOPER, ET AL.,

Appellees.

BEFORE: Mack, Newman, and Rogers, Associate Judges.

ORDER

On consideration of the motion of appellees to dismiss appeal and for award of attorney fees, and the opposition of appellants thereto, it is

ORDERED that the motion to dismiss is granted and this appeal is hereby dismissed.

PER CURIAM.

Copies to:

Honorable Paul F. McArdle

Clerk, Superior Court

Ms. Wilma Miller
3601 34th Street, N.W.
Washington, D.C. 20008

Stephen Daniel Keeffe, Esquire
1625 I Street, N.W.
Suite 815
Washington, D.C. 20006

DISTRICT OF COLUMBIA COURT OF APPEALS

RULE 7A

SETTLEMENT CONFERENCE PROCEDURE

(a) APPLICATION OF RULE.

This rule applies to all civil appeals. For purposes of this rule, the term "civil appeal" shall include all appeals from orders and judgments entered in the Civil Division (except the Landlord and Tenant and the Small Claims and Conciliation Branches thereof), the Tax Division and the Domestic Relations Branch of the Family Division of the Superior Court, and upon order of this court, to administrative appeals. This rule shall not apply to appeals filed under Rules 4(c), 5, or 6.

(b) SERVICE AND FILING OF CIVIL APPEAL STATEMENT; PAYMENT OF DOCKETING FEE.

(1) Each appellant, within fifteen days after filing a notice of appeal, shall serve a civil appeal statement in the form prescribed by this rule on all other parties, and shall file four copies thereof with the clerk. If the prescribed docketing fee has not been previously paid and the party is not authorized to proceed in forma pauperis, the docketing fee shall be paid before the civil appeal statement may be filed.

(2) Each appellee may file and serve on all other parties a response thereto within ten days after expiration of the time for filing a notice of cross-appeal. Four copies of the response shall be filed with the clerk.

(3) If a cross-appeal is filed, a cross-appellant shall file a counter-statement within ten days after expiration of the time for filing a notice of cross-appeal. The appellant may file a response thereto within seven days after service thereof.

(4) In consolidated appeals, individual appellants or appellees may file a statement or response. If separate statements are filed by individual appellants, the response may be filed within seven days after service of the latest statement to which it is responding. The filing of joint or separate statements or responses shall not obligate the parties to file briefs in the same manner. In the event the issues are not limited by the conference order (see section (h) of this rule), the parties shall not be limited in their briefs to the issues set forth in their statement.

DISTRICT OF COLUMBIA COURT OF APPEALS

(7) POST DECISION MOTIONS.

A statement of each post-decision motion made in the Superior Court, including the nature of the motion, the date it was filed, the decision on the motion, and its date of entry.

(8) NOTICE OF APPEAL.

The date the notice of appeal was filed; a copy of the notice of appeal shall be attached to the civil appeal statement.

(9) COUNSEL.

The name, address, and telephone number of counsel for each party.

(10) CERTIFICATE OF COUNSEL.

A statement signed by counsel for the party filing the statement certifying that the appeal is taken in good faith, and not for the purpose of delay, and whether the party represented by counsel is prepared immediately to take all steps to complete the appeal. If the statement indicates the party is not so prepared, the certificate of counsel must state the reason or reasons therefor

(11) ISSUES PRESENTED FOR REVIEW.

A statement of each issue the party intends to present for review.

(12) RELIEF SOUGHT.

The relief the party seeks from this court.

Please Disregard Underscoring
Thank U.

WITH REFERENCE TO
APPENDIX ITEM "M"

RULE 7A(d) January 1, 1985

DISTRICT OF COLUMBIA COURT OF APPEALS

(d) FORM OF RESPONSE

The caption of the response shall identify all parties on behalf of whom it is filed, in the same manner as a statement. The response shall include any modifications to the civil appeal statement that the appellee deems necessary to give the settlement conference judge a fair presentation of the matters material to settlement of the case. To the extent reasonably necessary to meet this objective, the response should correct any alleged errors in the civil appeal statement, present new issues, or modify those presented in the civil appeal statement.

(e) NOTICE OF SETTLEMENT CONFERENCE.

The court will determine whether one or more settlement conferences are appropriate in each civil appeal. The clerk will notify each party if a settlement conference is to be held. The notice will specify the date, time, and place of the conference, the name of the judge who will conduct the conference, and whether the parties are required to attend the conference. If a settlement conference is not to be held, the clerk will so notify the parties and establish the dates within which the remaining steps in the appellate process shall be completed.

(f) SUSPENSION OF PROCEDURAL RULE REQUIREMENTS.

The parties shall not be required to comply with the provisions of Rule 10, including filing a designation of record and ordering reporter's transcript, until the settlement conference procedure has been concluded or counsel have been notified that a settlement conference will not be held. The time for compliance with Rule 10 shall begin to run from the date on which notice is given of the conclusion of the settlement procedure or of the determination that no conference will be held. If a motion for consolidation is filed, the time for compliance with Rule 10 shall begin to run from the date of the ruling on that motion.

Please Disregard Underscoring,
IN S.W.B

CERTIFICATE OF SERVICE

I, Wilma A. Bartsch, hereby certify that true and exact copies of this "Appendix" to pending Petition for Writ of Mandamus will have been served by first-class mail, postage prepaid, upon the

Honorable Julia Cooper Mack,
Honorable Theodore R. Newman,
Honorable Judith W.Rogers,
Associate Judges of the
District of Columbia
Court of Appeals

and upon the

Honorable John F. Doyle,
Honorable Ronald P.Wertheim,
Honorable Paul F. McArdle
Associate Judges of the
Superior Court of the
District of Columbia,

at their addresses in the Judicial Bldg. at Indiana Ave. and John Marshall Place. Washington, D.C. 20001,

and upon the Office of the Corporation Counsel of the District of Columbia; 1350 E Street, N.W., Washington, D.C. 20001, and upon Stephen Daniel Keeffe, Esq.,(Attorney of Record for Respondents Bert H. Cooper and Mary A. Cooper in the proceedings below) 1625 I (Eye) Street, N.W., Suite 815, Washington, D.C. 20006.

on June 19, 1986

Wilma A. Bartsch